THE HON'BLE SRI JUSTICE C.V. RAMULU

5th June, 2006

W.P.No.26952 of 1998

Between:

Pasuparthy Agencies, rep.by its
Partner – Pasuparthy Sanath Kumar
S/o Srinivasulu Chetty, aged about 40
Years, R/o Gandhi Road, Tirupati
and 5 others

.. Petitioners

And

1. M. Jyothirmayi, being minor rep.
by her guardian M. Anjaneyulu,
S/o Sankarappa, 1-92-C1-83, Plot
No.6, 1 road Extn., Anantapur
2. The District Consumer Forum,
Anantapur

.. Respondents

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ORAL ORDER:

This writ petition is filed being aggrieved by the action of the 2nd respondent in registering the case filed in C.D.No.163 of 1998.

It is the case of the petitioners that the 1st respondent did not buy any goods for consideration from them; therefore, the provisions of the Consumers Protection Act (for short 'the Act') are not attracted to clothe the 2nd respondent with jurisdiction to entertain a complaint under Section 12 of the Act. A complaint before the 2nd respondent-Forum would lie only in relation to goods sold or delivered or any service provided or agreed to be provided with reference to such goods. Further, Section 14 of the Act provides that the District Forum, if after the proceedings conducted under Section 13 of the Act, is satisfied that the goods complained against suffer from any of the defects specified in the complaint, it shall grant the appropriate relief as mentioned in the Section. Since the above C.D. does not relate to any goods purchased or any deficiency in service in relation to such goods, the 2nd respondent-Forum has no jurisdiction to deal with it.

There is no dispute that the complaint does not disclose as to any deficiency in service. It simply states that petitioners herein due some amount to the 1st respondent. In this connection, it is relevant to extract the prayer in C.D.No.163 of 1998, which reads as under:

> "13. The petitioner, therefore, prays to direct the respondents
>
> (a) to pay the sum of Rs.1,26,000/- with interest at 24% from 1.7.98 till date of payment.
>
> (b) to pay a sum of Rs.30,000/- towards reimbursement of loss due to escalation of cost of 'inputs' of construction.
>
> (c) Rs.5,000/- towards reimbursement of travelling expenses from Anantapur to Tirupathi and expenses on typing, postage etc.
>
> (d) any other relief as the Hon'ble Forum may deem fit in circumstances of the case."

From the above, it reveals that the Consumer Dispute was filed for recovery of money and not for any deficiency of service. However, it seems that the point of jurisdiction has to be raised before the same Forum where the C.D. was registered. Such an effort seems to have not been made by the petitioners before the Forum.

Under the above circumstances, the writ petition is disposed of directing the District Consumer Forum, Anantapur (2nd respondent) to examine the point of jurisdiction i.e. as to whether the C.D. is maintainable before it or not, as a preliminary issue and pass appropriate orders within a period of one month from the date of receipt of a copy of this Order. No order as to costs.

05-6-2006

prk